

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

JOHN B. BIVONA; SADDLE RIVER
ADVISERS, LLC; SRA
MANAGEMENT ASSOCIATES, LLC;
FRANK GREGORY MAZZOLA

Defendants.

Case No. 3:16-cv-1386

**~~[PROPOSED]~~ ORDER AND
STIPULATION GRANTING
THE INDEPENDENT
MONITOR'S REQUEST FOR
AN AMENDMENT TO SEC.
IX OF THE ORDER
APPOINTING RECEIVER**

Date: No Date

Time: No Time

Judge: Edward M. Chen

The parties, U.S. Securities & Exchange Commission, counsel for defendants Saddle River Advisers, LLC ("Saddle River") and SRA Management Associates, LLC ("SRA Management"), and counsel for the Receiver hereby stipulate and agree to the entry of an order as follows:

1.) The Receiver in this matter, Sherwood Partners Inc., has attempted several times to open a Receivership securities account for the purposes of receiving publicly tradable stock, but has been informed by the securities firms interviewed that they believe the language of this Court's October 11, 2016 Order Appointing Receiver, Sec. IX, requires additional language in order to

1 permit the securities firms to open such an account, since such firms are not
2 “federally insured banks” as Sec. IX by its terms seems to require.

3 2.) Counsel to the Receiver brought this problem with the language of
4 Sec. IX to the Court’s attention during the CMC hearing on November 18,
5 2016, and suggested at the hearing that Sec. IX be amended as set forth below.

6 3.) The parties in attendance at the CMC hearing, plaintiff U.S.
7 Securities & Exchange Commission and counsel for defendants Saddle River
8 and SRA Management informed the Court and the Counsel for the Receiver
9 that they did not object to the amendment (in italics below) of the first sentence
10 of Sec. IX as follows:

11 **IX. Managing Assets**

12 “For each of the Receivership Estates, the Receiver shall establish
13 one or more custodial accounts at a federally insured bank *and/or*
14 *a broker dealer that is both a member of FINRA and Securities*
15 *Investment Protection Corporation (“SIPC”), to receive and hold*
16 *all cash equivalent Receivership Property (the “Receivership*
17 *Funds”). Securities that are not certificated may be held in any*
18 *manner generally acceptable under Rule 206(4)-2 of the*
19 *Investment Advisers Act of 1940, as amended (the “SEC Custody*
20 *Rule”), including maintaining custody of only an appropriate*
21 *indicia of ownership (such as a subscription agreement) with a*
22 *“qualified custodian” (as such term is defined in the SEC Custody*
23 *Rule). Applicable security accounts may be maintained either*
24 *directly with a qualified custodian or through a FINRA member*
25 *introducing broker that maintains trading and custodial*
26 *arrangements with a qualified custodian.*

27 4.) Based on the parties’ agreement, the Court will amend the language
28 of Sec. IX as agreed in Paragraph 3 above and issue an amended Order for the
Appointment of A Receiver, Docket No. 142.

1 SO STIPULATED.

2 Pursuant to Civil L.R. 5.1, I hereby attest that I have on file all
3 holographic signatures corresponding to any signatures indicated by a
4 conformed signature (/S/) within this e-filed document.
5
6

7 Dated: December 5, 2016

GARTENBERG GELFAND HAYTON
LLP

8
9 By: /s/ John W. Cotton
10 JOHN W. COTTON
11 Special Counsel to the Monitor

12 DATED: December 5, 2016 SECURITIES & EXCHANGE COMMISSION

13 By://s// By Permission (Civ. L.R. 5-1 (i))
14 JOHN YUN
15 Attorneys for Plaintiff

16 DATED: December 5, 2016

DEFENDANTS SADDLE RIVER AND SRA
MANAGEMENT

17
18 By://s// By Permission (Civ. L.R. 5-1 (i))
19 JAHAN P. RAISSI
20 SHARTSIS FRIESE LLP
21 Attorneys for Defendants Saddle River and
SRA Management

22 IT IS SO ORDERED.

23 DATED: December 5, 2016

24
25 Judge Ed
26 United Sta
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